

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MULBERRY HOMES VI LLC,

Plaintiff,

-against-

**ORDER ADOPTING REPORT
AND RECOMMENDATION**
15-CV-1913 (DRH)(GRB)

CONSTANCE GARGIULO, THE UNITED STATES OF AMERICA DEPARTMENT OF TREASURY INTERNAL REVENUE SERVICE, LONG ISLAND LIGHTING COMPANY D/B/A LIPA, KEYSpan GAS EAST CORPORATION D/B/A KEYSpan ENERGY DELIVERY L.I., LARRY JACOBSON, AS CHAIRMAN OF THE JOINT INDUSTRY BOARD OF THE ELECTRICAL INDUSTRY, EDWARD COREA, LVNV FUNDING, LLC, CITIBANK (SOUTH DAKOTA) N.A., NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, PEOPLE OF THE STATE OF NEW YORK BY INC. VILLAGE OF GARDEN CITY JUSTICE COURT, and JOHN DOE "1" through "12" said names being fictitious, parties intended being possible tenants or occupants of premises, and corporations, other entities or persons who claim, or may claim, a lien against the premises,

Defendants.

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Presently before the Court is the Report and Recommendation of Magistrate Judge Gary R. Brown, dated August 30, 2018, recommending that the Court (1) grant the motion to amend the caption to replace John Doe 1 with Laura Gargiulo and to dismiss John Does 2-12, LVNV Funding, LLC, New York State Department of Taxation and Finance, and the State of New York by the Incorporated Village of Garden City Justice Court; (2) dismiss the IRS; (3) grant the judgment of foreclosure and sale as to the remaining defendants; (4) award plaintiff damages of \$692,779.27; and (5) direct plaintiff to submit a revised Judgment of Foreclosure and Sale. The undersigned further recommends that the Court appoint a referee, who shall select the

appropriate newspaper and bank to conduct the sale of the mortgaged premises in accordance with N.Y. Real Prop. Acts. Law. More than fourteen (14) days have passed since service of the Report and Recommendation and no objections have been filed.

Pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72, this Court has reviewed the Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its result. Accordingly, the Court adopts the August 30, 2018 Report and Recommendation of Judge Brown as if set forth herein. Accordingly,

IT IS HEREBY ORDERED THAT (1) the motion to amend the caption to replace John Doe 1 with Laura Gargiulo and to dismiss John Does 2-12, LVNV Funding, LLC, New York State Department of Taxation and Finance, and the State of New York by the Incorporated Village of Garden City Justice Court is granted; (2) the action is dismissed as against the IRS; (3) the motion for a judgment of foreclosure and sale as to the remaining defendants is granted and plaintiff is awarded damages of \$692,779.27; and (5) plaintiff shall submit a revised proposed Judgment of Foreclosure and Sale consistent herewith under cover of letter on or before October 5, 2018.

SO ORDERED.

Dated: Central Islip, New York
September 27, 2018

s/ Denis R. Hurley
Denis R. Hurley
United States District Judge